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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/005,299	12/04/2001	Jian Qin	15,709	8098
23556 7590 05/26/2009 KIMBERLY-CLARK WORLDWIDE, INC. Catherine E. Wolf 401 NORTH LAKE STREET NEENAH, WI 54956			EXAMINER KIDWELL, MICHELE M	
			ART UNIT 3761	PAPER NUMBER
			MAIL DATE 05/26/2009	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/005,299

**Applicant(s)**

QIN, JIAN

**Examiner**

Michele Kidwell

**Art Unit**

3761

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 January 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-26, 44-47 and 53-97 is/are pending in the application.
- 4a) Of the above claim(s) 4, 5, 8, 22-26, 47, 53-82, 86 and 87 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6, 7, 9-21, 44-46, 83-85 and 88-97 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-849)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 – 3, 6 – 7, 9 – 21, 44 – 46, 83 – 85 and 88 – 97 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 01/60305.

WO 01/60305 (hereinafter '305) teaches the invention substantially as claimed. '305 provides an absorbent composition comprising an superabsorbent material and a cooling compound (page 12, line 29 to page 13, line 32). The absorbent composition exhibits the claimed absorbent capacity (page 6, lines 24 – 32) and exhibits a cooling effect. The absorbent material and cooling compound may be acidic and basic, respectively, ultimately providing the claimed pH ranges or similar ranges which may be modified based on the general conditions being disclosed in the prior art (see below). The absorbent capacity is also taught and/or may be modified based on the general conditions being disclosed in the prior art (see below), as the endothermic effect. The method naturally flows from the structure as taught by '305 and selling the invention of '305 would be within the level of one of ordinary skill in the art since '305 disclose that the structures of the invention are used for various purposes (page 1, 2<sup>nd</sup> paragraph).

A specific cooling effect is taught on page 12, line 29 to page 13, line 32 as well as the general use of the claimed materials in order to produce such an effect.

It would have been obvious to one of ordinary skill modify degree of the temperature reduction in order to provide the desired effect since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum value requires only a level of ordinary skill in the art.

### ***Response to Arguments***

Applicant's arguments filed January 21, 2009 have been fully considered but they are not persuasive.

Initially, applicant argues that the article of Sprengard-Eichel does not teach or suggest an absorbent composition including an absorbent material and a cooling compound. The examiner disagrees. As set forth in the rejection, Sprengard-Eichel discloses an absorbent composition, (which may be considered as the entirety of materials making up the article as the absorbent material is one of those materials) which includes a thermal cell actuator that may be integral with the already disclosed absorbent composition (col. 9, line 30), thereby providing the claimed limitations. See also col. 16, lines 14 – 16. Next, applicant argues that even if the materials were together, there is no evidence that they would meet the performance requirements. As noted on page 6 of the instant specification, suitable absorbents include those that are crosslinked. As set forth on page 6, line 29 of Sprengard-Eichel, the absorbent is crosslinked. Likewise, page 8, last paragraph of the instant specification states that the

cooling effect should include a chemical compound that has an endothermic effect with water upon contact with an aqueous solution. Sprengard-Eichel provides such in col. 16, line 30 to col. 17, line 17. With respect to the absorbent capacity, the applicant's arguments are not commensurate with the claims as the absorbent capacity is directed to the absorbent material, not the absorbent composition, which does not include the cooling compound and may be met by the disclosure of that related to a standard absorbent core.

The disclosure of an acidic or basic material is disclosed by Sprengard-Eichel on page 13, lines 15 – 25 and on page 6, line 31 through the incorporation of 4,610,678 to Weisman et al. See col. 4, lines 32 – 52.

With respect to the optimization of ranges and temperatures, the examiner contends that general principle has been set forth (i.e., a composition that allows for changes relative to all of the claimed limitations). The motivation to make such adjustments has been set forth by the prior art along with the means to make such adjustments. If one of ordinary skill in the art is able to "at once envisage" the specific embodiment within the generic teaching, the embodiment is anticipated. See MPEP 2131.02.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michele Kidwell whose telephone number is 571-272-4935. The examiner can normally be reached on Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Michele Kidwell/  
Primary Examiner, Art Unit 3761